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Nadine Strossen

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II. FREE SPEECH ARTICLES

THOUGHTS ON THE CONTROVERSY OVER POLITICALLY CORRECT SPEECH

*Nadine Strossen**

INTRODUCTION

I would like to offer a dispassionate perspective on the impassioned controversy over what has come to be called "PC" or "political correctness." Diatribes against PC have become so common that the term has taken on a pejorative connotation. However, I use this term only in a descriptive fashion and not to cast aspersions on the underlying ideas and ideals that are commonly swept together under this rubric. Indeed, my thesis is precisely that the subject of PC deserves a serious, objective analysis. So far, it too often has been treated in near hysterical terms in media stories, which uncritically assail constructive ideas and initiatives by focusing on a few extreme or misguided applications.

As another indication of how pervasive the attacks on PC have become, President Bush addressed this issue, and its allegedly adverse implications for free speech, in his May 1992 graduation speech at the University of Michigan in Ann Arbor.¹ George Bush hardly has been an ardent champion of free speech. For example, during the 1988 Presidential election campaign, he suggested that Michael Dukakis was unpatriotic for vetoing a bill that would have required all Massachusetts public school teachers to lead their students in saluting the American flag, without exemptions for conscientious objectors.² In so doing, President Bush ignored the Supreme Court's

* Professor of Law, New York Law School; President, American Civil Liberties Union; B.A. 1972, Harvard-Radcliffe College; J.D. 1975, Harvard Law School. Substantially similar versions of this essay have been published on prior occasions. Nadine Strossen, *Visions of the First Amendment for a New Millennium*, THE ANNENBURG WASH. PROGRAM at 14-46 (1992); Nadine Strossen, *Freedom of Speech and the American Community*, NORTHWESTERN UNIV. MONOGRAPH (forthcoming 1992). The author gratefully acknowledges the research assistance of Marie Costello, Eileen Magilligan, William Mills, Joseph Molinari, Karen Shelton and Catherine Siemann, and the helpful comments on previous drafts by Ira Glasser and M. Anne Jennings.

1. *Text of Remarks by President George Bush at University of Michigan Commencement*, MICHIGAN TODAY, May 1991, at 9-11; *Excerpts from President's Speech to University of Michigan Graduates*, N.Y. TIMES, May 5, 1991, at 32.

2. See Charles R. Kesler, *Pledge Issue Reveals Rift in America's View of Itself*, L.A.

landmark ruling that such laws violate the First Amendment.³

Moreover, in 1989 President Bush called for an amendment to the First Amendment to overturn the Supreme Court's ruling that burning the U.S. flag as a political protest is protected speech.⁴ He thereby apparently became the first President in United States history to invoke the constitutional amendment process to diminish the scope of the First Amendment's Free Speech Clause.⁵ Significantly, the Supreme Court Justices who concurred that the protected status of expressive flag-burning reflects a "bedrock principle"⁶ of free speech in our society included conservative Justices Kennedy and Scalia, as well as liberal Justices Brennan and Marshall. By seeking to remove this bedrock, President Bush threatened to undermine severely our system of free expression. In light of this background, President Bush's current invocation of free speech values to decry political correctness on campus no doubt has more to do with his rejection of the liberal and libertarian values at the core of certain PC reforms, than it has to do with his support for free expression.

President Bush's selective critique of PC speech illustrates that what constitutes politically correct speech often is in the listener's mind. For example, President Bush was quick to denounce the alleged pressures to support certain liberal values on some college campuses. In contrast, though, he did not condemn the pressures to support United States policy during the Persian Gulf War that were prevalent throughout American society, including on some college campuses. Where was President Bush when an Italian student at Seton Hall University was hounded off the school basketball team and out of the country because of his refusal to wear an American flag on his uniform during the war?⁷ Furthermore, what better example of the pressure to conform to the prevailing view of what is politically correct than the widespread use of yellow ribbons during and after the Persian Gulf war?

One astute student commentator, Rosa Ehrenreich, recently noted that those who decry alleged pressure to conform to liberal values as "politically correct" do not complain about conformist pressure to support conservative values, and even laud such conformity as, in effect, "patriotically correct."⁸ In the December 1991 issue of *Harper's Magazine*, she writes:

Many of the loudest complainers about P.C. thought police are those who are doing their best to curb free expression in other areas. It doesn't appear to bother Dinesh D'Souza that the word "abortion" can-

TIMES, Oct. 3, 1988, Part 2, at 5; John Dillon, *George Bush: Out of Reagan's Shadow, He Emerges as a Political Fighter*, CHRISTIAN SCI. MONITOR, Oct. 26, 1988, at 16.

3. West Virginia Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

4. Texas v. Johnson, 491 U.S. 397 (1989); see Charles M. Madigan, *Battles of Symbolism: Flag, Arts Disputes Reveal a Queasiness Over Self-Expression*, CHICAGO TRIBUNE, June 17, 1990, at 1.

5. Kevin Cullen, *Bill of Rights, Under Fire, Turns 200*, BOSTON GLOBE, Dec. 15, 1991, at 6.

6. Johnson, 491 U.S. at 414.

7. Ken Shulman, *College Basketball: A Man of Principle Pays the Price*, N.Y. TIMES, Mar. 3, 1991, § 8, at 1.

8. Rosa Ehrenreich, *What Campus Radicals?*, HARPER'S MAGAZINE, Dec. 1991, at 57, 61.

not be uttered at a federally funded family clinic. More broadly, the brouhaha about political conformity on campus serves as a perfect smoke screen, masking from Americans — from ourselves — the rigid political conformity *off* campus: the blandness of our political discourse, the chronic silence in Washington on domestic matters, the same faces returned to office each year, the bipartisanship that keeps problems from becoming issues. During the Gulf War, the number of huge yellow bouquets in public places rivaled the number of larger-than-life photos of Saddam Hussein displayed on Iraqi billboards. Patriotically correct.⁹

Although we should be aware of the political motivations that may impel certain selective PC critics such as George Bush, this realization should not detract from the force of the criticism to the extent that it is persuasive in its own right. Too many critics of the unfair aspects of the PC criticism in turn have been unfair themselves, dismissing that criticism because some of its exponents may be motivated by political considerations rather than by a neutral devotion to free speech principles.

To some degree, the exaggerations and distortions that mark the PC debate reflect the fact that it has occurred largely in media forums that are not always conducive to careful, reasoned analysis of difficult, complex issues. The many related ideas and programs that are generally grouped together under the PC label raise some difficult legal issues, including important free speech and equality issues. Yet, so far, scholarly publications have not addressed most of these issues. Although many recent law review articles have addressed the issue of campus rules prohibiting “hate speech,” this is only one manifestation of the PC movement.

Legal measures used to coerce people into abandoning “incorrect” speech raise justifiable concern about the invasion of First Amendment rights. On the other hand, pressures to conform that do not involve legal restrictions or punishments are often an integral part of the normal, robust give-and-take of public discourse. The exchange of opposing viewpoints, whether expressed forcefully or timidly, is a dialogue generally protected by the First Amendment. Regrettably, the term “PC” is often used imprecisely to embrace both legal and social pressures, as well as others. As I will explain in this essay, discrete forms of political correctness require separate analyses. In this relatively brief piece, I will sketch the issues that should be the subjects of more considered examination.

I. THE PROBLEM: THE EXCESSES OF PC, OF PC BASHING, AND OF BASHING THE PC BASHERS

To put the PC controversy in a more comprehensive perspective than that from which it tends to be viewed, I will outline the spiral of attack and counterattack that has characterized popular debate. An appropriate starting point is the origination of the term “political correctness.” Not so long ago, academic colleagues who shared progressive beliefs occasionally de-

9. *Id.* at 61.

scribed some of their actions as "PC."¹⁰ Such description was invariably ironic.¹¹ It described an idealism that was at worst exaggerated or occasionally silly. But, at its best, it constituted an ongoing impetus for making academic institutions more open, diverse, and egalitarian. That impetus is correct, and no one should apologize for it. Why shouldn't there be pressure to make universities more diverse and egalitarian?

But the current use of the term by the media and by the political right often lacks both the collegial tone and the irony that marked its original usage.¹² As Ehrenreich comments:

There *are* those on the left who are intolerant and who could stand to lighten up a bit — these are the activists whom *progressive* and *liberal* students mockingly called "politically correct" years before the right appropriated the term, with a typical lack of irony.¹³

The PC phenomenon has become the butt of harshly serious attacks, many of which are themselves excessive. PC has been decried, for example, as the "New McCarthyism," the "New Stalinism," and the "Fascism of the Left."¹⁴ Much of this attack has come from those who oppose making academic institutions more open, diverse and egalitarian. They have seized upon the excesses of those who would promote diversity and used those excesses to discredit the ideal of diversity itself.

Since at least some of these excesses are vulnerable to humor, PC also has been the target of scathing satire. An excellent example of this attack is the cartoon strip "Thatch," which was created by Jeff Shesol. Mr. Shesol is a 1991 graduate of Brown University, which he describes as a bastion of PC orthodoxy. The hero of his cartoon strip, modeled after "Superman," is named not "PC Man," but — of course — "PC Person"! A 1991 issue of *The New Republic* reports that there are multiple campus parodies and jokes not only about PC, but also about deconstructionists ("Decons") and multiculturalism ("Multicult").¹⁵

This kind of satire is certainly well within the realm of traditional discourse. But often it is not value-neutral. Many of those who criticize the PC movement also have a political agenda, which sometimes has led them to excesses that mirror those they purport to deplore.

There are two principal types of distortions and oversimplification in the recent spate of PC-bashing. The first, as I have already indicated, tends to lump several distinct phenomena together, which must be analyzed separately. Garry Wills has listed five different phenomena often indiscriminately targeted by PC critics: 1) promoting the use of sensitive terminology;

10. Linda Brodkey & Sheila Fowler, *Political Suspects*, VILLAGE VOICE EDUC. SUPP., Apr. 23, 1991, at 3, 4.

11. *Id.*

12. *Id.*

13. Ehrenreich, *supra* note 8, at 59.

14. Brodkey & Fowler, *supra* note 10, at 4.

15. Fred Siegel, *The Cult of Multiculturalism: How the New Orthodoxy Speaks Power to the Truth*, THE NEW REPUBLIC, Feb. 18, 1991, at 34, 40. One joke goes as follows: Question — What do you get when you cross a deconstructionist with a mafioso? Answer — Someone who makes you an offer you can't understand. *Id.*

2) prohibiting racist, sexist, and other hateful slurs; 3) using "persuasive social pressures" (Wills' terminology); 4) replacing or expanding a traditional "canon" of academic works with a more multicultural curriculum; and 5) affirmative action in the selection of students and faculty.¹⁶

Before discussing the distinct issues raised by each category, I want to discuss the second principal type of oversimplification, to which I already have alluded, and which has characterized much of the PC bashing: the unfair singling out of extreme interpretations or applications of certain underlying goals and using them to discredit the goals themselves and the actions designed to promote them.

For example, one widely reported incident involved a student at the University of Pennsylvania, who was allegedly reprimanded by a faculty member for supporting the concept of individual rights on the ground that this notion is a tool for oppressing historically powerless groups.¹⁷ Such an episode should be criticized in and of itself; it should not be the basis for a wholesale condemnation of the entire PC movement, nor should it be used to broadly impugn champions of historically powerless groups.

Too many PC critics have leapt from appropriate criticism of such isolated incidents to an inappropriate condemnation of PC reforms generally. For example, after describing some exaggerated examples of PC thinking, a 1991 cover story in the *Atlantic* by Dinesh D'Souza reaches this sweeping conclusion:

If the university model is replicated in society at large, far from bringing ethnic harmony, it will reproduce and magnify in the broader culture the lurid bigotry, intolerance and balkanization of campus life.¹⁸

This kind of generalization represents a large inferential leap, which is not supported even by D'Souza and other PC critics themselves—who do not purport to have conducted comprehensive or representative surveys of universities nationwide—let alone by more dispassionate observers of campus life. To the contrary, a national survey conducted by the American Council on Education ("ACE") concluded that during the 1990-91 academic year, faculty members complained of pressure from students and fellow professors to alter the political and cultural content of their courses at only five per cent of United States colleges and universities.¹⁹ Citing the survey results, Elaine El-Khawas, ACE vice president, commented, "Reports of widespread efforts to impose 'politically correct thinking' on college students and faculty appear to be overblown."²⁰ Ernest Boyer, president of the Carnegie Foundation for the Advancement of Teaching, said the ACE findings were similar

16. Garry Wills, *Peeling Off Political Labels*, SACRAMENTO BEE, Dec. 28, 1990, at B11.

17. Charles Bremner, *The Thought Police Closing Off the American Mind*, THE TIMES (LONDON), Dec. 19, 1990, at 12.

18. Dinesh D'Souza, *Illiberal Education: Current Controversies in American Higher Education*, THE ATLANTIC, Mar. 1991, at 51, 79.

19. Kenneth J. Cooper, *Political Correctness Conflicts Not Widespread*, *College Administrators Say*, WASH. POST, July 29, 1991, at A5.

20. Huntly Collins, *Study: Few 'Politically Correct' Disputes*, PHILADELPHIA INQUIRER, July 29, 1991, A3.

to his foundation's own survey results on related issues.²¹

In a related vein, surveys belie PC critics' depiction of American campuses as dominated by leftist or liberal faculty members. A recent poll of 35,478 professors at 392 institutions nationwide, conducted by the Higher Education Research Institute at UCLA, revealed that only 4.9% described themselves as "far left," while 36.8% described themselves as "liberal," 40.2% as "moderate," and 17.8% as "conservative."²² In sum, those who viewed themselves as "moderate" or "conservative," a total of 58%, outnumbered those who called themselves "far left" or "liberal," a total of 41.7%.

Nor is there any evidence that liberal students are dominant on American campuses. To the contrary, a national survey conducted by UCLA and the American Council on Education revealed that only twenty-six percent of incoming college freshmen now consider themselves as liberals or far left.²³ As low as this number is, it is the highest percentage of college freshmen who have considered themselves liberal or far left since 1977.²⁴ Consequently, the percentage of self-identified liberal or far left students currently attending colleges and graduate schools is under twenty-six percent. This proportion is comparable to that of freshmen who have labeled themselves conservative or far right during the past decade, which is over twenty percent.²⁵

21. *Id.*

22. Troy Duster, *They're Taking Over and Other Myths about Race on Campus*, MOTHER JONES, Sept.-Oct. 1991 at 30, 63.

23. Mary Jordan, *More College Freshmen Liberal, Study Finds Number Calling Themselves Liberal Declines, Shift Seen as 'Reaction to Hard Times'*, WASH. POST, Jan. 13, 1992, at A6.

24. *Id.*

25. *Id.* The relative absence of left-leaning students on American campuses is encapsulated in the title and subtitle of Rosa Ehrenreich's *Harper's* article: "What Campus Radicals? The P.C. Undergrad is a Useful Specter." Ehrenreich elaborated on the ascendance of conservative students and the decline of liberal students during her undergraduate years at Harvard College, from which she graduated in 1991:

In my four years as a student at Harvard, I found few signs of a new fascism of the left. For that matter, there are few signs of the left at all. The Harvard-Radcliffe Democratic Socialists Club collapsed due to lack of members, as did the left-wing newspaper . . . [T]he African-American Studies department and the Women's Studies committee each had so few faculty that the same woman served as chair of both. I got through thirty-two courses. . . , majoring in the history and literature of England and America, without ever being required to read a work by a black woman writer, and of my thirty-two professors only two were women. I never even saw a black or Hispanic professor. (Fewer than ten percent of tenured professors at Harvard are women, and fewer than seven percent are members of minorities.) . . .

Meanwhile—and unremarked upon by D'Souza, et al.—the campus right thrives nationally. Two new right-wing vehicles have popped up on Harvard's campus in recent years. The Association Against Learning in the Absence of Religion and Morality (AALARM) initially made a splash with its uninhibited gay-bashing. The magazine *Peninsula*, closely tied to AALARM, bears an uncanny editorial resemblance to the notorious *Dartmouth Review*, claims to uphold Truth, and has a bizarre propensity for centerfold spreads of mangled fetuses. And older, more traditional conservative groups have grown stronger and more ideological. The Harvard Republican Club, once a stodgy and rela-

Even assuming, for the sake of argument, that the incidents of PC intolerance reported by its critics are indicative of a general national pattern, some such critics nevertheless are apparently selective in their assaults on intolerance. Were they equally vociferous when blacks were virtually banished from campus life—as students, as faculty, and as administrators? George Bush, for one, opposed the 1964 Civil Rights Act and related measures that prohibited racial and other forms of discrimination by various entities, including higher educational institutions.²⁶ Whatever bigotry and intolerance may exist on college campuses today, it pales in comparison to the truly “lurid bigotry and intolerance”²⁷ that prevailed on most college campuses only a few decades ago. This is illustrated by some statistics about the gender and race of college students in 1960: ninety-four percent of students at public institutions, and ninety-six percent at private institutions, were white; sixty-three percent of college students were male. Today, in contrast, there are almost four times as many college students, fifty-five percent of whom are female, and twenty percent of whom are non-white or Hispanic.²⁸ That the recent near-exclusion of African Americans from many American campuses does not persist today is largely due to the efforts of academic reformers such as those whom PC critics now attack.

David Beers, senior editor of *Mother Jones*, similarly noted the selective sensitivity of some PC critics to campus intolerance, citing the contrasting lack of protest about the intolerance toward campus leftists during the McCarthy era:

[F]eminists, multiculturalists, and other challengers of entrenched power become [according to critics of PC] “McCarthyites”—although the victims of McCarthy in the 1950s certainly didn’t have national cover stories rushing to their defense. In a letter to the *Chronicle of Higher Education*, psychology professor Leon Kamin, who during the McCarthy period was among dozens of academics fired or made unemployed for refusing to cooperate with congressional inquisitions, wrote: “It is difficult for me to take seriously the present bleating of D’Souza and the National Association of Scholars. I do not recall their predecessors voicing great concern about the ‘political correctness’ quite literally endorsed by state power. . . .”²⁹

The overstated attacks on the PC phenomenon have been so numerous that they have given rise to a backlash, characterized by the same exaggerated invective and biting humor displayed in attacks on PC. In other words,

tively inactive group, suffered a rash of purges and resignations as more moderate members were driven out by the far right. It is inactive no more.

Ehrenreich, *supra* note 8, at 58-59.

26. Susan Page, *Once a Foe of Civil Rights Bill, Bush Lands It on Anniversary*, *NEWSDAY*, July 1, 1989, at 9.

27. See *supra* text accompanying note 18.

28. John Schaar, Commencement Speech 1991, Kresge College, University of California; Stimpson, *Multiculturalism: A Big Word at the Presses*, *N.Y. TIMES BOOK REV.*, Sept. 22, 1991, § 7, at 1.

29. David Beers, *P.C.? B.S. Behind the hysteria: how the Right invented victims of PC police*, *MOTHER JONES*, Sept.-Oct. 1991, at 34, 65.

the excessive PC bashing by the anti-PC movement, which columnist Ellen Goodman suggested could be labelled "APC," has led to a counterbashing.

Ellen Goodman rightly satirizes the excesses of PC-bashing, just as the PC bashers themselves usefully satirize the excesses of the PC movement. Ironically, though, Goodman's critique of the PC critics also employs the very same unfair caricaturing technique that she decries when it is deployed by the PC critics.³⁰ Perhaps Goodman herself is consciously doing this precisely to satirize the excesses of the anti-APC backlash.

In a *Houston Post* column, Robert Newberry criticized the APC movement even more sweepingly, without the leavening quality of Ellen Goodman's satiric humor. With the same grim righteousness that characterizes overblown attacks on PC, he condemns all criticisms—and all critics—of PC. This *ad hominem* attack unfairly dismisses the legitimate aspects of the PC critique along with its excesses. Newberry writes that the critics of the PC movement "are bigots who want to maintain the current biases and hatred against people of other races, women, homosexuals and anyone who might be different."³¹ Painting with a similarly broad brush, an editorial in the *Toronto Star* issued a wholesale denunciation of "[t]he outcry against 'political correctness' " as "the expression of a backlash . . . against all progressive causes."³²

Much of the anti-APC backlash has been focused on an organization called the National Association of Scholars, or "NAS." For example, Robert Newberry's column in the *Houston Post* describes that group as "an organization that seems highly dedicated to locking out blacks and women. And . . . I'd guess that its 1500 members are overwhelmingly white and male — a group of insecure men who fear the loss of their domination of U.S.

30. See Ellen Goodman, *Wearing the PC Label with Pride*, BOSTON GLOBE, Mar. 31, 1991, (Op-ed Sect.), at A27 (3d ed.):

She was accused the other day of being politically correct. Maybe it was the string bag in her hand. Maybe her use of the word "person." Or her ticket stubs to "Dances with Wolves." Maybe it was because she was known to favor such things as multiculturalism or diversity. She says that she was "accused" because this was not a friendly exchange. The label was delivered with a sneer and carried the aura of an epithet. Once attacked, she was expected to cringe with denial. . . . She had counted . . . several dozen major articles about these repressive progressives.

According to the current theory, a faculty raised on '60s dissent was spending the '90s rooting out the very last vestiges of racism, sexism, heterosexism, Eurocentrism, even looks-ism and species-ism. In the process, no dissent from their dissent was allowed.

Undergraduates in their care were similarly said to be in hot pursuit of the very last racial slur, sexual leer or environmentally unsound T-shirt. They had become conformists in their belief in diversity, narrow-minded in pursuit of multiculturalism, and utterly vicious in the fight against cultural insensitivity.

All this was dire proof that liberal commandants were suppressing free thought and intellectual debate. Proof that their establishment had produced a corps of storm troopers intent on, gasp, bashing intolerance.

Id.

31. Robert Newberry, *Cry of 'Politically Correct Thinking' a Smokescreen*, HOUSTON POST, Jan. 30, 1991, (Editorial Sect.) at A17 (final edition).

32. Michele Landsberg, *'Politically Correct' and proud of it*, TORONTO STAR, Feb. 26, 1991, at B1.

society.”³³ Newberry expressly admits, though, that he issued this severe indictment “without ever seeing a membership breakdown of the NAS.”³⁴

The NAS’s public statements and other materials certainly do not, on their face, warrant such searing accusations of racism and sexism.³⁵ Regardless of whether one agrees with every plank in the NAS platform, I hope we would all agree that it constitutes a legitimate contribution to academic discourse. The NAS platform is a part of robust debate which should not be mischaracterized as the rantings of racists and sexists.

In an essay in the *Sacramento Bee*, Professor Ruth Rosen attempts to chart a moderate course through the PC controversy that resists the unfair extremes of both PC-bashing and APC-bashing, and that recognizes the positive contributions of the PC movement as well as the dangers of its excesses. Professor Rosen writes that the originators of the PC movement

have played an honorable part in challenging the university to reconsider its curriculum and mission as the second millennium draws to a close. The tragedy is that a vocal but critical mass has adopted a self-righteous dogmatism that scares many of us who have fought the same battles. In the worst cases, they have replaced one rigid world view with a politically correct new orthodoxy. . . . Embattled by the [Anti-PC] backlash, few of us [academics] have been willing to admit publicly that good and honorable dissent is being muffled when people fear their intellectual honesty will be misunderstood as racist or sexist. . . .³⁶

33. Newberry, *supra* note 31, at A17.

34. *Id.*

35. See *The Wrong Way to Reduce Campus Tensions*, A Statement by the National Association of Scholars, THE NEW REPUBLIC, Feb. 18, 1991, at 31. The statement says:

Safeguarding intellectual freedom is of critical importance to the academy. Thus, it is deeply disturbing to see the concept of “discriminatory harassment” stretched to cover the expression of unapproved thoughts about selected groups or criticism of policies assumed to benefit them. Higher education should prepare students to grapple with contrary or unpleasant ideas, not shield them from their content. What is more, if a highly permissive attitude toward the excoriation of the “privileged” accompanies the censorship of critical views about other groups, a backlash is predictable.

Tolerance is a core value of academic life, as is civility. College authorities should ensure that these values prevail. But tolerance involves a willingness, not to suppress, but to allow divergent opinions. Thus, “sensitivity training” programs designed to cultivate “correct thought” about complicated normative, social, and political issues do not teach tolerance but impose orthodoxy. And when these programs favor manipulative psychological techniques over honest discussion, they also undermine the intellectual purposes of higher education and anger those subjected to them.

The NAS urges universities to take certain steps to reduce campus tensions, including the following:

- * protecting the expression of diverse opinion
- * avoiding programs that attempt to impose “politically correct” thinking
- * adding or retaining ethnic or gender studies courses only when they have genuine scholarly content and are not vehicles for political harangue or recruitment.

Id.

36. Ruth Rosen, *Old Mind-Sets, New Times on University Campuses*, SACRAMENTO BEE, Jan. 28, 1991, at B15.

II. TOWARD A SOLUTION: A BALANCED DISCUSSION OF DISTINCT ISSUES RAISED BY SEPARABLE PC PHENOMENA

A. Terminology

To launch a more rational discussion of the cluster of related issues that are grouped together under the PC rubric, I will make a few observations about each of these issues. The first such issue in Garry Wills' helpful taxonomy is that of appropriately sensitive terminology. Here is what Wills himself had to say about this question: "This is a simple matter. Common courtesy dictates one should address people by the names they prefer."³⁷

It is difficult to disagree with Wills' point that one should defer to people's chosen terms for identifying the groups to which they belong. As Robin Morgan wrote in a 1991 editorial in *Ms.* magazine, "[I]f choosing inclusive language instead of carelessly cruel terminology that gives pain to others is PC, then PC must stand for plain courtesy."³⁸

I believe, though, that Wills' assessment understates the importance of selecting respectful terminology and the difficulty of doing so. The importance of terminology transcends simply being courteous to the groups it describes, weighty as that is. Using certain terms also significantly affects perceptions about the group referred to—not only on the part of members of that group, but also on the part of other listeners and speakers. For example, in my role as a law professor, I regularly use female pronouns to refer to lawyers, judges, and legislators. I do this not only to convey to my female law students my respect for them, but also because I want to impress upon all my students that women should and do occupy every role within our legal system.

The concrete role that language can play in the effort to promote the equality of traditionally oppressed groups is demonstrated by the actual adverse impact that non-gender-neutral language had on the struggle for women's voting rights. After the 1868 ratification of the Fourteenth Amendment, some leaders in the movement for women's suffrage argued that no additional constitutional amendment was required to extend the franchise to women. The Fourteenth Amendment provides that "[a]ll persons born or naturalized in the United States . . . are citizens of the United States," and that "[n]o state shall . . . abridge the privileges or immunities of citizens of the United States."³⁹ The suffragists reasoned that women are persons and that voting is one of the privileges and immunities of citizenship. Therefore, they argued, the Fourteenth Amendment secured women's voting rights. Accordingly, in the 1872 presidential election, suffragist leader Susan B. Anthony led a group of women to the polls in Rochester, New York, seeking to cast their ballots. For this effort to exercise what she believed to be her constitutional right, Anthony was arrested, indicted, prosecuted, convicted, and fined. In rejecting her construction of the Fourteenth

37. Wills, *supra* note 16, at B11.

38. Robin Morgan, *Whose Free Press Is It, Anyway?* *Ms.*, July-August 1991.

39. U.S. CONST. amend. XIV, § 1.

Amendment, government officials argued "that the use of the masculine pronouns 'he,' 'his' and 'him' in all the constitutions and laws, is proof that only men were meant to be included in their provisions."⁴⁰ For those who decry gender-neutral language, such as "he and she" or "chairperson," this historical episode should demonstrate that language which excludes certain groups may well perpetuate, as well as reflect, those groups' exclusion from full and equal participation in our society.

Psychological studies show that language profoundly affects perceptions and conduct, and in particular, language conveying respect for groups that have been the targets of bias actually undermines such bias. Therefore, the effort to use respectful terminology is more urgent than a matter of etiquette or symbolism. It actually makes a contribution to combating prejudice and the discriminatory conduct that is motivated by prejudice. A study conducted at Smith College recently documented this phenomenon in the context of American college campuses. Dr. Fletcher Blanchard, a psychologist at the college who conducted the experiment, concluded that, "A few outspoken people who are vigorously anti-racist can establish the kind of social climate that discourages racist acts."⁴¹

Just as I think Garry Wills understated the importance of sensitively choosing labels for groups that are often the subjects of discrimination, I also think he understated the simplicity of doing so. How members of certain groups prefer to be identified often changes over time, and also varies from place to place. For example, a 1991 survey indicated that, nationally, four-fifths of blacks prefer to be referred to as such, and only one-fifth prefer the term "African American."⁴² However, in certain areas of the country, and among certain income and occupational categories, the latter term was preferred by a majority of African Americans.⁴³ And at least some people old enough to remember the now discredited term "colored people" are mystified by the claimed progressive difference between it and the now accepted term "people of color."

The difficulties attendant to using appropriately sensitive terminology are underscored by the *Dictionary of Cautionary Words and Phrases*, which was created by a group of journalists from newspapers including *The Baltimore Sun*, *New York Newsday*, *Dallas Times Herald*, *Chicago Tribune*, *Atlanta Journal-Constitution*, and *Miami Herald*.⁴⁴ The dictionary's entry for the term "African American" contains the following cautionary note: "Preferred by some, but not universally accepted. May be objectionable to those

40. Susan B. Anthony, *Women's Right to Vote*, reprinted in THE AM. READER 160, 162 (Ravitch ed. 1991).

41. Daniel Goleman, *New Way to Battle Bias: Fight Acts, Not Feelings*, N.Y. TIMES, July 16, 1991, at C1; Fletcher A. Blanchard et al. *Reducing the Expression of Racial Prejudice*, PSYCHOL. SCI., 101, 105 (1991).

42. *Poll Says Most Blacks Prefer 'Black' to 'African-American'*, N.Y. TIMES, Jan. 29, 1991, at A19.

43. *Id.*

44. *Ugh! Oops; New Race Relations Rules on Campus: 'Bad' Words from the Dictionary of Cautionary Words and Phrases*, THE NEW REPUBLIC, Feb. 18, 1991, at 39 [hereinafter *Dictionary*].

persons preferring black."⁴⁵

I would like to interject another cautionary note about this particular terminology issue. Until the day he retired, Supreme Court Justice Thurgood Marshall eschewed both "black" and "African American," using yet another term, "Afro-American." Marshall consistently used this term in his judicial opinions,⁴⁶ and excoriated a journalist who used the term "black" during the press conference at which Marshall announced his retirement from the Court.⁴⁷

The Marshall situation demonstrates that even reliance upon the *Dictionary of Cautionary Words and Phrases* would not necessarily insulate one from unwittingly offending the sensibilities of certain readers or listeners. Moreover, the designation preferred by members of particular groups changes over time, so the dictionary is likely to be quickly outdated. For example, the dictionary states that "homosexual" is "[t]he preferred term for people attracted to members of the same sex."⁴⁸ The dictionary further states that "[d]erisive terms such as . . . queer are highly objectionable."⁴⁹ However, in a public address during the summer of 1991, no less important a spokesperson for the lesbian and gay community than Thomas Stoddard, then the Executive Director of the Lambda Legal Defense Fund, implored the audience to forswear the term "homosexual," explaining that it dehumanizes gay men and lesbians.⁵⁰ Moreover, a 1991 article in the *New York Times* reported that some militant gay rights activists now prefer the term "queer," and view it as defiant and empowering, rather than derisive.⁵¹

The use of such a traditionally derogatory term as "queer" in an assertive fashion, by the members of the group referred to, raises another complicating factor. Sometimes members of a group appropriate a disparaging term and use it among themselves. This has occurred not only with the words "queer" and "dyke," but also with such other epithets as "nigger," "cholo," and "slope." While these terms may actually connote endearment when used among group members, it still is generally not "permissible"—i.e., appropriately sensitive and respectful—for non-group members to use them.

As another example of the indeterminacy and fluctuation of appropriately sensitive terms, the *Dictionary of Cautionary Words and Phases* warns against a term that frequently has been used in recent legal and political discourse not only about PC issues, but also about individual and collective rights more generally: "community."⁵² The dictionary contains the follow-

45. *Id.*

46. See, e.g., *McClesky v. Bowers*, 112 S.Ct. 37 (Marshall, J., dissenting) (1991); *Board of Educ. v. Dowell*, 111 S.Ct. 630, 639 (Marshall, J., dissenting) (1991).

47. See William Safire, *On Language: The Prep-Droppers*, N.Y. TIMES, July 28, 1991, § 6, at 10.

48. *Dictionary*, *supra* note 44, at 39.

49. *Id.*

50. Thomas Stoddard, Address at the Biennial Conference of American Civil Liberties Union (June 27, 1991).

51. See Alessandra Stanley, *Militants Back 'Queer,' Shoving 'Gay' the Way of 'Negro'*, N.Y. TIMES, April 6, 1991, § 1, at 23.

52. *Dictionary*, *supra* note 44, at 39.

ing warning about the insensitivity that some listeners or readers might impute to those who use the term "community":

Implies a monolithic culture in which people act, think, and vote in the same way. Do not use, as in Asian, Hispanic, black, or gay community. Be more specific as to what the group is: e.g., black residents in a northside neighborhood.⁵³

To note the difficulty of identifying the preferred term for referring to particular groups is not to downplay the importance of maintaining sensitivity to this issue and making a good faith effort to use appropriate terminology. The difficulty does, however, mean that people should not quickly be condemned as insensitive—or, worse yet, biased—if they inadvertently use what some might regard as the "wrong" term. For example, Harvard University history professor Stephan Thernstrom has written that he was vilified as racially insensitive because, among other things, he used the term "American Indian," whereas his detractors preferred the term "Native American."⁵⁴ However, some leading organizations and individuals who work for the rights of this group prefer the term "Indian," or at least use "Indian" interchangeably with "Native American."

Selecting terminology that reflects appropriate sensitivity toward the concerns of racial minorities is an aspect of the larger goal of increasing such sensitivity in other respects as well. To be sure, PC critics can point to examples of "sensitivity training" that might try to inculcate PC attitudes. However, there are few of us who could not profit from some genuine sensitivity training, which would teach us to see the world to some extent from others' points of view. Far from limiting one's perspective, as would result from an indoctrinating form of sensitivity training, if appropriately conducted, such training would expand one's perspective.⁵⁵

53. *Id.*

54. Stephan Thernstrom, *McCarthyism Then and Now*, ACAD. QUESTIONS, Winter 1990-91, at 14.

55. In a letter to Nadine Strossen, (August 13, 1991) (on file with author), the enormous potential value of sensitivity training was well stated by M. Anne Jennings, a lawyer and human rights activist:

One of the tragedies of the polarization of the debate about race on campuses, as well as in society at large, is that many white people find themselves with no people of color with whom they might have frank discussions about race and might learn how people of different races and backgrounds feel, and why they perceive statements or attitudes as "racist" when the speaker may not have meant them to be taken that way.

While blacks in particular have had to learn the ways of white folks to survive, many white people have never bothered to learn much at all about other groups. At their best, such sessions could provide a needed space for people to begin to understand each other better.

Most people in fact are largely ignorant about other groups. This is by no means restricted to whites. Blacks, particularly from the East and South, often write about racial issues as if there were no Asians in the United States, or as if Asians do not experience prejudice, despite the exclusion laws, Japanese internment, the Vietnam War and current Japan-bashing; Latinos, who are either the biggest minority group, or will soon be, are also often ignored altogether by both blacks and whites writing about racism.

B. Hate Speech Codes

The second element in Garry Wills' taxonomy of PC phenomena is the banning of racist, sexist, and other types of hateful slurs. My discussion of this matter will be relatively brief, since it is the one aspect of the PC debate that has received extensive scholarly commentary, and I have published a lengthy law review article on the subject myself.⁵⁶ My own view, consistent with an extensive policy on this issue that was adopted by the national ACLU in 1990,⁵⁷ is that the overbroad speech codes that have been adopted on many college campuses suffer from a double defect.

First, these codes violate the fundamental tenet that, in Oliver Wendell Holmes' immortal words, above all else, the First Amendment protects "freedom for the thought that we hate."⁵⁸ Consequently, these codes chill discussion of the important but inflammatory subjects of race, gender, and the like.

Second, these codes fail to address meaningfully the real problem of racism and other types of biased attitudes and conduct; by targeting the most superficial expressions of such deep-seated attitudes, the codes apply a band-aid to a problem requiring major surgery. To use another metaphor that was suggested by a Hamline University student who attended a lecture I gave at his campus in 1991, silencing blatant expressions of racism is like putting a silencer on a gun. Instead, the ACLU urges campus officials to adopt meaningful programs to combat prejudice, which will be consistent with free speech values, and also more effective than censorship. Some such steps would include:

- responding promptly to incidents of bigotry and discriminatory harassment, and protecting students from any further such incidents;
- pursuing vigorous efforts to attract significant numbers of historically disadvantaged groups as students, faculty members, and administrators;
- offering courses in the history and meaning of prejudice;
- establishing new-student orientation programs and ongoing programs that enable students of different races, sexes, religions, and sexual orientations to learn to live together; and
- ensuring that course offerings and extracurricular programs recognize the contributions of those whose cultures have been insufficiently reflected in the curriculum of many educational institutions.

As in other contexts, speech is not absolutely protected on college campuses. Although racist and other types of hate speech may not be regulated solely because of the offensive content of the ideas conveyed, this does not mean that such speech may never be regulated for other reasons. The Supreme Court never has held, and civil libertarians never have argued, that

56. Nadine Strossen, *Regulating Racist Speech on Campus: A Modest Proposal?*, 1990 DUKE L.J. 484.

57. Reprinted in appendix.

58. *United States v. Schwimmer*, 279 U.S. 644, 655 (1929) (Holmes, J., dissenting).

harassing, intimidating, threatening, coercive or assaultive conduct should be immunized simply because it consists partly of words.

To be sure, it is often difficult to draw a distinction between protected expression which conveys an offensive idea, and regulable expression which constitutes harassment, intimidation, and the like. As is true regarding many areas of free speech jurisprudence, as well as other areas of constitutional law, no detailed rules can be prescribed, and courts must assess each particular situation in light of all the facts and circumstances. Because this line-drawing task is constitutionally required, it cannot be evaded despite its difficulty. ACLU policy provides general guidelines for this undertaking.⁵⁹

C. *Persuasive Social Pressure*

The third type of PC policy, in Garry Wills' categorization, is "persuasive social pressure." This differs from hate speech codes, which attempt to ban certain expressions by subjecting them to disciplinary sanctions. In contrast, persuasive social pressure seeks to discourage some expression. For example, students and faculty members who express certain ideas or attitudes may be hissed, booed, shouted at, labeled with certain epithets—e.g., "racist," "sexist," or "bigot"—or ostracized, as well as argued with.

It is important to note that much of the anti-PC criticism that is so prominent in the media is directed at exercises of persuasive social pressure. Apart from critiques of restrictive speech codes, few complaints about the PC phenomenon have been aimed at outright proscriptions or punishments by university authorities. For example, the widely deplored situation of Harvard Professor Stephan Thernstrom, who dropped a history course in response to charges that he displayed racial insensitivity in teaching it, did not involve any disciplinary action by Harvard University. Rather, he was criticized or questioned by students and by a student newspaper.⁶⁰

Putting aside the merits or fairness of the criticism to which Thernstrom and other members of academic communities have been subject, it is clear that such criticism is itself protected free expression and often necessary, or at least desirable, to effect certain reforms. Therefore, it is problematic to invoke free speech principles, as some PC critics have done, to challenge this facet of the PC phenomenon. It is especially ironic that some PC critics who deplore attempts to suppress epithets that *reflect* bias, as inconsistent with free speech principles, in turn seek to suppress epithets that *accuse of* bias. These critics are guilty of using a double standard. The appropriate response to speech that adversely affects both types of victims should be the same. Both sets of epithets constitute protected speech, which may not be prohibited or punished.

Ironically, because of the APC backlash in the national media, persuasive social pressures may well be exerted more forcefully against those who are accused of demanding PC orthodoxy than against those who allegedly have

59. See, *infra*, appendix.

60. Thernstrom, *supra* note 54, at 14.

departed from such orthodoxy. To the extent that those criticized as non-PC are faculty members, whose critics are students, the hierarchical power relationship makes it likely that if the social pressures chill anyone's speech, it will be that of the students. In these scenarios, the social pressures operate to stifle PC views. Rosa Ehrenreich relates that this was the outcome of Harvard Professor Stephan Thernstrom's alleged victimization by several black students and the student newspaper, the *Harvard Crimson*. While national media stories portrayed Thernstrom as a victim of social pressures which chilled his academic freedom and free speech, Ehrenreich suggests that the net balance of countervailing social pressures—and the differential powers behind them—effectuated a greater chill on the speech of students, including student newspaper editors.⁶¹

To be sure, social pressures may well cast a chill upon certain expressions; indeed, that is their very purpose. Such pressure may serve the laudable purpose of discouraging bigoted expressions. For example, if Student A makes a remark that is viewed as racist, and her fellow students hiss, Student A herself, as well as other students who hear the hissing, are likely to be deterred from making similar remarks in the future. Does this mean that a "pall of PC orthodoxy" is stifling campus debate, as some APC forces charge? Or does it simply mean that unfettered, robust free speech is thriving?

On the other hand, the absence of social pressure may also chill expression. If Student B makes a remark that Student C, a woman, regards as sexist, and there is no vocal student response, Student B and others might be encouraged to make similarly insensitive remarks in the future. In turn, this may discourage Student C, as well as other women and feminists, from participating in discussions. Does this mean that a pall of anti-PC orthodoxy is stifling campus debate, as some PC proponents charge? Or does it simply mean that unfettered, robust free speech is thriving?

For better or worse, both of these scenarios involve the give-and-take of societal and academic discourse, which is protected by the First Amendment. Therefore, they must be distinguished sharply from legal prohibitions that violate First Amendment principles. Of course, those of us who are professors should constantly encourage civil, mutually respectful *modes* of discourse, while discouraging *manners* of expression that create an atmosphere of fear and hostility. Such an undertaking is distinguished from discouraging students from expressing *ideas* or *opinions* that are, or are perceived as, disrespectful or hostile. Furthermore, the notion of civil dis-

61. Ehrenreich, *supra* note 8, at 61.

It is always clever of those in ascendance to masquerade as victims. Rebecca Walkowitz, the newly elected president of the *Harvard Crimson*, understands perfectly how this dynamic works. Referring to the 1988 incident involving Professor Thernstrom . . . , Walkowitz has said: "People call the *Crimson* and ask what we 'did to that man.' It's important to remember who has the power here, because it's not students. Who would dare criticize a professor for political reasons now? In addition to fearing for your grade, you'd fear being pilloried in the national press."

Id.

course must embrace vigorous exchanges that cause discomfort. Drawing these lines can be difficult, but surely First Amendment principles permit a much broader range of expression than many professors—including those who staunchly adhere to First Amendment values—would encourage, or even approve, in our classrooms.

D. Affirmative Action

The fourth phenomenon encompassed by the PC label is affirmative action. Demographic statistics about our higher educational institutions bear witness to the importance of affirmative action programs in enhancing equal opportunity and achieving diversity of both student bodies and faculties. Since the advent of affirmative action programs in higher educational institutions, various minority groups and women have participated in all phases of higher education in substantially greater numbers. Nevertheless, especially on faculties and in graduate programs, the low numbers of women and minorities still reflect patterns of past and current societal discrimination.⁶²

Increased integration at all levels of campus life is not only essential for the benefit of those who are excluded, so that they can more fully and equitably participate in our society, but it is also essential for the benefit of the other groups on our campuses and in our larger society. As students enter an increasingly diverse society in the United States, and an increasingly interconnected world, every well-educated individual needs to be prepared to live and work with people of different racial, ethnic, cultural, and other backgrounds. Pluralism is a fact of life and ought to be an essential ingredient of higher education.

Moreover, studies about the causes of racial and other forms of prejudice demonstrate that one of the most effective methods for eradicating prejudice is for individuals from different groups to work together on common endeavors. Thus, by giving students and faculty members from diverse backgrounds an opportunity to study and work together, universities can make a significant contribution both to those individuals and to society at large.

Traditionally, the exposure to individuals from different backgrounds and cultures has been an important element of the university's mission. Thus, affirmative action in the context of higher education should not be (mis)perceived as just a manifestation of the current PC trend, but rather should be understood as consistent with the earliest conceptions about the university's special role. Indeed, the term "university" shares the same etymological roots as the term "universal," reflecting concepts of a single, all-encompassing world.⁶³ This point was elaborated upon in a recent article

62. See Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988); Leo M. Romero, *An Assessment of Affirmative Action in Law School Admissions After Fifteen Years: A Need for Recommitment*, 34 J. LEGAL EDUC. 430 (1984).

63. FUNK & WAGNALLS NEW INTERNATIONAL DICTIONARY 1373-74 (Comprehensive Edition 1984).

by a leading expert on academic freedom, Professor J. Peter Byrne of Georgetown Law School. He wrote:

Ethnic and national diversity among students and faculty contribute to the cosmopolitan culture of learning that has always reached beyond physical and tribal boundaries in search of merit and knowledge. During its formative years in the Middle Ages, the university recruited faculty and students from great distances; indeed, the medieval term most used for the university, the *studium generale*, emphasized that faculty and students came to study there from all the nations of Europe.⁶⁴

PC critics have observed that some affirmative action programs have negative ramifications upon academic freedom and free speech. They report that, on some campuses, faculty and students are pressured to specialize in academic areas that harmonize with their own affinity groups. Other reports claim that faculty committees and governing bodies may be politically stacked by such groups. Conceding for the sake of argument the accuracy of at least some such reports, one should not make judgments about the underlying merits of affirmative action on the basis of particular misguided programs or actions that parade under its name. Nevertheless, it is important to criticize such excessive programs or actions, especially because they can subvert or discredit the very goals they purport to serve.

For example, some universities allegedly permit only Latino professors to teach Latin-American literature. As another example, some minority students say they feel pressured to major in the "relevant" field—e.g., an African American student "should" major in African-American Studies. Correspondingly, some white students say they are told that they will never get jobs if they specialize in racial or ethnic studies. Such ethnic stereotyping, or ghettoization, is antithetical to First Amendment values that are especially important, in an academic setting, to the spirit and structure of free inquiry. This point was made by Stephen Barnett, a law professor at the University of California at Berkeley, when he wrote that these "territorial attitudes . . . that would segregate fields challenge the basic idea of scholarship as a journey into the unknown, in favor of affirming an ethnic identity already understood."⁶⁵

Ethnic or sex-based segregation of disciplines undermines important goals of equality, as well as free speech. It is a form of apartheid, a new version of the old notion that blacks think differently from whites, or that women are "naturally" different from men in their cognitive abilities. It also reflects the prejudiced, stigmatizing, and ultimately fictional notion of distinct, separate cultures. As the jazz musician Wynton Marsalis said: "Everybody has two heritages, ethnic and human. The human aspects give art its real enduring

64. J. Peter Byrne, *Racial Insults and Free Speech Within the University*, 79 GEO. L.J. 399, 420-21 (1991).

65. Stephen R. Barnett, *Get Back: a campus report: Berkley; New race relations rules on college campuses*, THE NEW REPUBLIC, Feb. 18, 1991, at 24, 26.

power.”⁶⁶

In a recent *New York Times* essay, Henry Louis Gates, Jr., who is the W.E.B. Du Bois Professor of the Humanities at Harvard University, notes that Du Bois made a similar point about this dual cultural heritage. Professor Gates said:

Writing in 1903, W.E.B. Du Bois expressed his dream of a high culture that would transcend the color line: “I sit with Shakespeare and he winces not.” But the dream was not open to all. “Is this the life you grudge us,” he concluded, “O knightly America?” For him, the humanities were a conduit into a republic of letters enabling escape from racism and ethnic chauvinism. Yet no one played a more crucial role than he in excavating the long buried heritage of Africans and African-Americans.⁶⁷

Equality principles are endangered by a balkanized view of culture in an additional way, through the perpetuation of separation and its ensuing heightened racial tensions. This is a basic point, but, in light of the currently prevailing emphasis on racial and cultural *differences*, it bears stressing. Martin Luther King, Jr. made the point powerfully, when he noted that “men hate each other because they fear each other, and they fear each other because they don’t know each other, and they don’t know each other because they are often separated from each other.”⁶⁸

In short, when properly conceived and implemented, affirmative action programs should diversify the participants in the university community, and thereby enrich each participant’s understanding and options. Any program that, to the contrary, narrows any participant’s understanding or options, perverts the purpose of affirmative action, which is to enable integration and equal opportunity.

E. Multiculturalism

The final phenomenon that is referred to under the PC rubric is often labelled “multiculturalism”—i.e., broadening the traditional cultural canon beyond its Eurocentric focus, to encompass multicultural perspectives. It is crucial to remember, lest we be confused by the term “multicultural,” that we live in and are part of a *single* culture. But this single culture is a multi-faceted composite, and it distorts and diminishes our culture to emphasize only some of these facets and to ignore or subordinate others.

At its best, multiculturalism is an attempt to include all the constituent elements of our single culture. Enriching the university’s curriculum through such multiculturalism is therefore as important, for similar reasons, as is enriching the university’s personnel through affirmative action. Well-educated students should be familiar with the numerous components of the

66. Irving Howe, *The Value of the Canon: What’s Wrong With P.C.*, THE NEW REPUBLIC, Feb. 18, 1991, at 40.

67. Henry Louis Gates, Jr., *Whose Culture Is It Anyway?*, N.Y. TIMES, May 4, 1991, at Y15.

68. Newberry, *supra* note 31.

single culture of an increasingly pluralistic United States. Black students, for example, need to know about the cultural contributions of their ethnic group, but so do white students. Both need to know European contributions as well. Our culture is integrated in fact; it needs to be taught that way. Moreover, well-educated American students also should be familiar with the histories and cultures of the many other countries around our increasingly interconnected world. This point was well stated by the ACLU's National Legal Director, John A. Powell:

At this juncture in our history, it should be clear that diversity itself is the essence of American culture. Contributions from different racial and ethnic backgrounds have intersected at various points, over several hundred years, to form an indivisible cultural entity that is uniquely American. Moreover, our culture is always evolving and changing. It has been predicted that by the year 2056, no one racial group of Americans will be in the majority.⁶⁹

Just as the compelling principles underlying affirmative action programs potentially can be implemented in a distorted fashion, leading to racial and cultural segregation of faculty and students, so too, the important goal of multiculturalism could be subject to misguided implementation. Critics are right to caution about potential dangers, but proponents are correct to note that an essentially positive innovation should not be rejected because of some extreme and wrongheaded implementations.

Along with all other academic courses, courses that reflect a multicultural perspective can be taught in ways that will advance the goals of liberal education—by promoting critical thinking and opening up students' minds—or they can be taught in ways that will retard such goals—by indoctrinating students into a prescribed orthodoxy. Any subject can be taught in a biased manner or used as a vehicle for political indoctrination—even mathematics. That this issue is raised most often in the context of multicultural courses or ethnic studies, therefore, implies a bias of its own. Indeed, it is precisely the argument of those who advocate multicultural curricula that the traditional exclusion of certain facets of our culture has resulted in an educational failure, the failure to open students' minds as much as they might have been.

The Modern Language Association (MLA) recently offered an illuminating perspective on the current hostility or suspicion toward curricular reforms that introduce multicultural perspectives. A statement by the MLA's Executive Council pointed out that similar reactions have greeted every curricular reform since the MLA's formation in 1883, including reforms that introduced many now-established, widely accepted elements of current curricula.⁷⁰

69. John A. Powell, *The Multiculturalism Debate*, WATERBURY INQUIRER, Nov. 27, 1991 (Mr. Powell prefers this spelling; he is an E.E. Cummings fan).

70. Executive Council, Modern Language Association, *Statement on the Curriculum Debate*, May 1991. The statement notes:

Changes in what we teach our students have never been free of controversy. In this context, it is useful to recall that the Modern Language Association arose in 1883 precisely out of such controversy—the opposition to adding the teaching of English and other modern languages and literatures to a curriculum dominated

Multicultural courses are neither inherently likely to stimulate critical thinking nor inherently likely to stifle such thinking; whether they open or shut students' minds depends on how they are taught. That always has been true about all education. However, since multicultural courses touch on inherently sensitive and controversial subjects such as race, gender, and ethnicity, about which students are likely to have strong and often inaccurate preconceptions, it is particularly important that these courses be taught in a manner consistent with the free inquiry values central to liberal education.

In his recent *New York Times* essay, Professor Gates described the excesses of both the PC and APC factions in the multiculturalism controversy:

The cultural right wing, threatened by demographic changes and the ensuing demands for curricular change, has retreated to intellectual protectionism, arguing for a great and inviolable "Western tradition," which contains the seeds, fruit and flowers of the very best thought or uttered in history. (Typically, Mortimer Adler has ventured that blacks "wrote no good books.") Meanwhile, the cultural left demands changes to accord with population shifts in gender and ethnicity. Both are wrongheaded.

I am just as concerned that so many of my colleagues feel that the rationale for a diverse curriculum depends on the latest Census Bureau report as I am that those opposed see pluralism as forestalling the possibility of a communal "American" identity.⁷¹

The potential benefits of a multicultural perspective have been powerfully described by M. Anne Jennings. As she noted, "quite apart from the need to study other cultures, we cannot even understand 'western' culture properly if we don't study the impact of other cultures in shaping it."⁷² Ms. Jennings

by Greek and Latin. The teaching of American literature, as distinct from English literature, evolved after World War I out of a similar dispute, in which many claimed that educational standards were being sacrificed to popular taste. And fifty years ago, there was strong resistance to the introduction into literature classes of writers like Joyce, Woolf, Kafka, Garcia Lorca, and Faulkner.

Id.

71. Gates, *supra* note 67, at Y15. Professor Paul Starr, editor of *The American Prospect*, has also expressed a similarly nuanced alternative view to the excessive endorsements and indictments of multiculturalism that have marred the PC-APC debate. Paul Starr, *The Cultural Enemy Within*, *THE AM. PROSPECT*, Winter 1991, at 9, 11. Professor Starr wrote:

In the name of multiculturalism, . . . some want to expand the sense of American identity and enrich the common culture, whereas others—advocates . . . of a new tribalism—insist that only the members of each group are capable of representing it. . . . The former is completely consistent with liberal values; the latter, deeply antagonistic to them. It does no good to treat both tendencies with either a blanket curse or a blanket endorsement.

Id.

72. Jennings letter, *supra* note 55. Ms. Jennings explained this important observation as follows:

Anyone who views "western civilization" as purely western obviously never studied it very thoroughly. At least when I learned it, this study began with the Egyptians and Sumerians, who were, respectively, African and Middle Eastern. Egypt had a flourishing trade with black Africa from very early times. Greek culture was heavily influenced by the Persians, who developed a distinctive style that used to be called "eastern." Both the Romans and the Persians traded with

further noted the importance of studying non-western cultures, even apart from their influence on "western" civilization.

Marvelous as "western" culture has been in exploring and developing certain aspects of human experience and institutions, it by no means explored all parts of the spectrum of human experience equally. We all, therefore, have a great deal to learn from other cultural traditions, and our own experience is diminished to the extent we ignore them. Even the most elitist proponent of "high culture" as the only thing worth studying would be enriched by learning something about Asian art, literature and philosophy, including religious philosophy.⁷³

The potential dangers of introducing multicultural curricula, against which the APC critics rail, could be avoided simply by teaching such courses—along with all other courses—in the spirit of liberal education and in the context of a single culture. This means, first, that the introduction of multicultural perspectives does not require eliminating the traditional study of European civilization. On the contrary, it would take us in the wrong direction to assume that in order to include previously excluded aspects of our culture, we need to exclude other valuable aspects of our culture, or to reject them, because of an imagined reactionary orthodoxy we may think they represent.⁷⁴

It is important to ensure that multicultural courses encompass differing

China and India from at least the first century AD. Hellenistic culture was really more "eastern" than "western," at least in terms of geography.

Christianity also sprang out of what we now call the Middle East, and a lot of its traditions derive from cults in the Roman Empire that originated in Persia and "the East." The Moors, who were much more advanced than the barbarian Europeans, attacked Europe from the southwest, ultimately introducing lost Roman ideas that had been translated into Arabic and were then translated by Jews into Spanish, and then back into Latin, revolutionizing Europe. Mongols and Turks came from the East, with great impact on "western civilization."

Europe recovered from the Dark Ages only after trade was re-established with the East, primarily through Muslim traders, and that ultimately touched off a search for trade routes that further expanded "western" horizons. In short, "western" civilization itself was a multicultural product from the very beginning.

Id.

73. *Id.*

74. See Howe, *supra* note 66, at 43. As Irving Howe explains:

[To suppose that most of the great works of the past are bleakly retrograde in outlook] is a sign of cultural illiteracy. Bring together in a course on social thought selections from Plato and Aristotle, Machiavelli and Rousseau, Hobbes and Locke, Nietzsche and Freud, Marx and Mill, Jefferson and Dewey, and you have a wide variety of opinions, often clashing with one another, sometimes elusive and surprising, always richly complex. . .

At least as critical in outlook are many of the great poets and novelists. Is there a more penetrating historian of selfhood than Wordsworth? A more scathing critic of society than Dickens? A mind more devoted to ethical seriousness than George Eliot? A sharper critic of the corrupting effects of money than Balzac or Melville?

These writers don't necessarily endorse our current opinions and pieties—why should they? We read them for what Robert Frost calls "counterspeech," the power and brilliance of *other minds*, and if we can go "beyond" them, it is only because they are behind us.

What is being invoked here is not a stuffy obeisance before dead texts from a

viewpoints on all subjects, and that students and faculty are free to voice a range of opinions. A recent essay by a Harvard Ph.D. candidate in history bitterly deplored the chilly climate that, in his perception, denied this diversity of viewpoints in the ostensible pursuit of multiculturalism. He wrote:

In this environment, keeping one's liberal convictions takes work. I have to remind myself that I *believe* in affirmative action, I support opening up the literary canon. . . But that isn't enough for my correcter colleagues. Their idea of diversity is a chorus of voices all saying the same thing.⁷⁵

This ends my outline of the unbundled group of issues that often are lumped together under the PC rubric. In this overview of the subject, I have skimmed the surface of some difficult and important constitutional and policy issues. Some further challenging questions that underly the PC controversy, in addition to those touched on in this piece, include the following:

—Should universities be permitted, or even required, to inculcate certain values in their students? For example, values that are consistent with the U.S. constitutional philosophy? What about inculcating a belief in free speech? In tolerance? In pluralism? In equality?⁷⁶

—Where there are conflicts among the foregoing values, is there a hierarchy, so that universities should prefer some, at the expense of others?

—If there is a conflict between values of academic freedom and free speech, how should that be resolved? For example, some proponents of both values have argued that such a conflict is embodied in the proposed Collegiate Speech Protection Act.⁷⁷ This proposed federal statute⁷⁸ would allow students at federally financed private universities to seek federal court injunctions against measures that, at public universities, would violate the First Amendment. In other words, the act would ensure that students on federally financed private campuses would have the same free speech rights as students attending state universities. Nonetheless, some adherents of free

dead past, but rather a critical engagement with living texts from powerful minds still very much "active" in the present. . . .

Serious education must assume, in part, an adversarial stance toward the very society that sustains it—a democratic society makes the wager that it's worth supporting a culture of criticism. But if that criticism loses touch with the heritage of the past, it becomes weightless, a mere compendium of momentary complaints.

Id.

Implicit in Howe's statement is the importance of how traditional curricular material is taught. Along with the non-traditional multicultural curriculum, the traditional "canon" may be taught in either an indoctrinating or a non-indoctrinating fashion; both curricula may be tools for either opening minds or closing them.

75. Richard Blow, *Mea Culpa*, THE NEW REPUBLIC, Feb. 18, 1991, at 32.

76. These questions have been briefly addressed in Nadine Strossen, "Secular Humanism" and "Scientific Creationism": *Proposed Standards for Reviewing Curricular Decisions Affecting Students' Religious Freedom*, 47 OHIO ST. L.J. 333, 375-77 (1986).

77. See Frank Michelman, *Universities, Racist Speech, and Democracy in America: An Essay for the ACLU*, HARV. C.R.-C.L. L. REV. (forthcoming 1992) (manuscript on file with author).

78. H.R. 1380, 102d Cong., 1st Sess. (1991).

speech and academic freedom values oppose the Collegiate Speech Protection Act because they believe that by injecting the state into private academic affairs, academic freedom ultimately will be jeopardized to an extent that is unacceptable, even for the important cause of promoting student free speech. Are they correct in this view?

CONCLUSION

Ever since the free speech movement began at Berkeley in 1964, the generation to which I belong has questioned the traditional university in terms of curriculum, intellectual atmosphere, and composition of the student body and faculty. Now that many members of that generation have become tenured professors and otherwise exert influence over universities, we bear a solemn responsibility to keep alive the values expressed in the free speech movement of the 1960's. We must encourage our universities, in all their endeavors, to promote not only diversity of race, gender, and other social groupings, but also diversity of opinions and beliefs.

APPENDIX: ACLU POLICY STATEMENT
FREE SPEECH AND BIAS ON COLLEGE CAMPUSES

Preamble

The significant increase in reported incidents of racism and other forms of bias at colleges and universities is a matter of profound concern to the ACLU. Some have proposed that racism, sexism, homophobia and other such biases on campus must be addressed in whole or in part by restrictions on speech. The alternative to such restrictions, it is said, is to permit such bias to go unremedied and to subject the targets of such bias to a loss of equal educational opportunity. The ACLU rejects both these alternatives and reaffirms its traditional and unequivocal commitment both to free speech and to equal opportunity.

Policy

1. Freedom of thought and expression are indispensable to the pursuit of knowledge and the dialogue and dispute that characterize meaningful education. All members of the academic community have the right to hold and to express views that others may find repugnant, offensive, or emotionally distressing. The ACLU opposes all campus regulations which interfere with the freedom of professors, students and administrators to teach, learn, discuss and debate or to express ideas, opinions or feelings in classroom, public or private discourse.
2. The ACLU has opposed and will continue to oppose and challenge disciplinary codes that reach beyond permissible boundaries into the realm of protected speech, even when those codes are directed at the problem of bias on campus.
3. This policy does not prohibit colleges and universities from enacting disciplinary codes aimed at restricting acts of harassment, intimidation and invasion of privacy. The fact that words may be used in connection with otherwise actionable conduct does not immunize such conduct from appropriate regulation. As always, however, great care must be taken to avoid applying such provisions overbroadly to protected expression. The ACLU will continue to review such college codes and their application in specific situations on a case-by-case basis under the principles set forth in this policy and in Policy 72.
4. All students have the right to participate fully in the educational process on a nondiscriminatory basis. Colleges and universities have an affirmative obligation to combat racism, sexism, homophobia, and other forms of bias, and a responsibility to provide equal opportunities through education. To address these responsibilities and obligations, the ACLU advocates the following actions by colleges and universities:
 - (a) to utilize every opportunity to communicate through its administrators, faculty, and students its commitment to the elimination of all forms of bigotry on campus;
 - (b) to develop comprehensive plans aimed at reducing prejudice, re-

sponding promptly to incidents of bigotry and discriminatory harassment, and protecting students from any such further incidents;

(c) to pursue vigorously efforts to attract enough minorities, women and members of other historically disadvantaged groups as students, faculty members and administrators to alleviate isolation and to ensure real integration and diversity in academic life;

(d) to offer and consider whether to require all students to take courses in the history and meaning of prejudice, including racism, sexism and other forms of invidious discrimination;

(e) to establish new-student orientation programs and continuing counseling programs that enable students of different races, sexes, religions and sexual orientations to learn to live with each other outside the classroom;

(f) to review and, where appropriate, revise course offerings as well as extracurricular programs in order to recognize the contributions of those whose art, music, literature and learning have been insufficiently reflected in the curriculum of many American colleges and universities;

(g) to address the question of *de facto* segregation in dormitories and other university facilities; and

(h) to take such other steps as are consistent with the goal of ensuring that all students have an equal opportunity to do their best work and to participate fully in campus life.

This policy is issued in connection with, and is intended as an interpretation and enhancement of, the binding resolution on racist speech adopted at the 1989 Biennial Conference. The resolution provides:

The ACLU should undertake educational activities to counter incidents of racist, sexist, anti-semitic and homophobic behavior (including speech) on school campuses and should encourage school administrators to speak out vigorously against such incidents. At the same time the ACLU should undertake educational activities to counter efforts to limit or punish speech on university campuses.